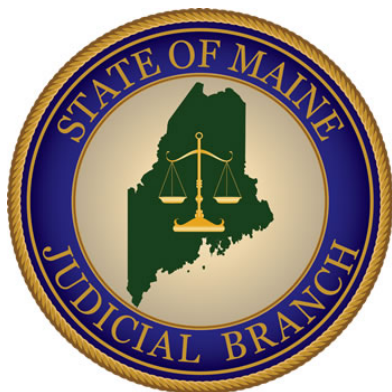


A GUIDE TO PROTECTION FROM ABUSE AND HARASSMENT CASES



State of Maine Judicial Branch

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Important disclaimer: The specific requirements concerning your case are contained in the statutes, rules, and administrative orders. This is only a guide.

Protection from Abuse Forms

- ☐ PA-001 *Complaint for Protection from Abuse* (plaintiff) (starts the case)
- ☐ PA-017 *Important Notice to Plaintiff* (plaintiff) (crime to make a false statement)
- ☐ PA-005 *Protection Order Service Information* (plaintiff) (helps court locate the defendant to give notice of the case)
- ☐ PA-015 *Affidavit for Confidential Address/Telephone Number* (plaintiff) (keeps contact information for the plaintiff private for safety reasons)
- ☐ FM-050 *Child Support Affidavit* (plaintiff and defendant) (if the plaintiff and the defendant have minor children together and no child support order is in place)
- ☐ PA-012 *Plaintiff's Pre-Judgment Motion to Dismiss Complaint* (plaintiff)
- ☐ PA-013 *Motion to Extend Order for Protection* (plaintiff)
- ☐ PA-022 *Plaintiff's Post-Judgment Motion to Modify/Motion to Terminate Protection Order* (plaintiff)
- ☐ PA-010 *Defendant's Motion to Dissolve Temporary Order for Protection or to Modify/Amend (with incorporated Affidavit)* (defendant)

Protection from Harassment Forms

- ☐ PA-006 *Complaint for Protection from Harassment* (plaintiff) (starts the case)
- ☐ PA-017 *Important Notice to Plaintiff* (plaintiff) (crime to make a false statement)
- ☐ PA-005 *Protection Order Service Information* (plaintiff) (helps court locate the defendant to give notice of the case)
- ☐ PA-015 *Affidavit for Confidential Address/Telephone Number* (plaintiff) (helps court locate the defendant to give notice of the case)
- ☐ PA-012 *Plaintiff's Pre-Judgment Motion to Dismiss Complaint* (plaintiff)
- ☐ PA-013 *Motion to Extend Order for Protection* (plaintiff)
- ☐ PA-022 *Plaintiff's Post-Judgment Motion to Modify/Motion to Terminate Protection Order* (plaintiff)
- ☐ PA-010 *Defendant's Motion to Dissolve Temporary Order for Protection or to Modify/Amend (with incorporated Affidavit)* (defendant)

If you are a victim of violence, abuse or harassment and believe you are in immediate danger, call 9-1-1.

For help locating emergency services in your area, call 2-1-1.

This guide has important information about **filing**, or responding to, a protection from abuse or protection from harassment case. All sections of the guide can better help both sides understand their rights and responsibilities under the protection laws.

Part A deals with protection from abuse cases, where the **plaintiff**, (the individual filing the case), currently has or had a relationship with the **defendant**, (the individual responding).

Part B deals with protection from harassment cases. No current or prior relationship is required in protection from harassment cases.

There are no fees in a protection from abuse case. There may or may not be fees in a protection from harassment case. The clerk's office will tell you what the fees are, if applicable.

To begin a case, the plaintiff must fill out, sign, and submit the first three forms listed on the inside front cover of the guide for the type of case involved. (Additional forms may be required.) If a judge decides the information in the **Complaint** qualifies, he or she will grant a **temporary order** immediately. Whether or not a temporary order is granted, the case may be scheduled for a hearing on a **final order** at that time.

Both the plaintiff and the defendant must attend the final hearing. Be prepared to present your side of the case before the judge at that time. If you do not go to court on the date of the final hearing, the court will likely decide the case against you.

If you need help presenting your side of the case, contact an attorney or one of the organizations listed on the back inside cover of the guide

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Introduction

This guide explains the process of filing for a temporary or final **order** for protection from **abuse** or protection from **harassment** with the court. Maine law allows victims of domestic or dating abuse, sexual assault, stalking or harassment (plaintiffs) to obtain both short-term emergency protection, and long-term protection. Maine law also allows individuals accused of abuse, **sexual assault**, **stalking** or harassment (defendants) to contest a claim. This guide contains information for both plaintiffs and defendants (parties).

The protection from abuse and protection from harassment laws differ from one another in significant ways. Although both are civil laws and share some of the same procedures, each law has separate requirements. Part A of this guide explains the process for protection from abuse; Part B deals with protection from harassment. Sometimes the laws are referred to collectively in the guide as the “protection laws.”

Many of the legal terms used are explained in the Definition of Key Terms section at the end of the guide. The first time these terms are used they will be in **bold** text.

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Representing yourself in court can be challenging. This guide is intended to assist non-lawyers. To make the guide more readable, some sections of statutes, rules or administrative orders cited have been shortened or paraphrased. While every effort has been made to ensure that the information presented is accurate, comprehensive, and clear, to the extent that there is any conflict between the law and this guide, the law controls. Readers should therefore not rely on the guide for the final word on the requirements of the governing laws.

In addition, the guide describes the general procedures and requirements of the governing laws. The court’s decision in individual cases will take into consideration the specific facts and circumstances of each case.

All of the sections of the protection laws can be found in the Maine Revised Statutes as follows:

Title 19-A, Sections 4001-4014 (protection from abuse);

Title 5, Sections 4651-4660-A (protection from harassment); and

Titles 17 and 17-A (sections of the Maine Criminal Code referenced in Title 19-A and Title 5).

The Maine Revised Statutes are available online at:

<http://www.mainelegislature.org/legis/statutes>. The statutes contain the specific legal language and requirements that a judge applies when deciding a case under the protection laws.

The Maine District Court has forms the parties must use in protection cases. The District Court clerk can provide copies of the forms to be completed and answer general questions. Clerks cannot help the parties determine which forms to use, tell the parties what to put in the forms, or give legal advice.

Many forms can be completed online using a computer and then printed. If you do not have access to a computer or printer, you can go to a library with public computer access and ask the librarian to help you find the forms, or use a computer and printer at another location. A list of public libraries can be found at:

<http://www.maine.gov/msl/libraries/directories/public.shtml>.

Online forms for both plaintiffs and defendants can be found at:

http://www.courts.maine.gov/fees_forms/forms/index.shtml#pa.

A checklist of forms for both protection from abuse and protection from harassment cases for plaintiffs and defendants can also be found on the inside front cover of this guide.

Ensuring access to justice

To help people with limited English proficiency use Maine courts effectively, the forms used in cases brought under the protection laws are available in several languages other than English. Please note that forms in non-English languages are for reference only. Forms submitted to the court must be in English.

Parties who need assistance having forms translated, or who need the assistance of an interpreter in a case, may request assistance at the clerk's office. Interpreters are also available by telephone at all clerks' offices.

Assistance is also available for individuals with disabilities. To request a **reasonable accommodation** in a protection from abuse or protection from harassment case, contact the clerk in the District Court where the

case will take place, or submit an Accommodation Request Form. A link to this form, and more information concerning accessibility and interpreters is available on the Maine Judicial Branch website at: http://www.courts.maine.gov/citizen_help/access_interp.html.

General information about participating in a court case

The protection laws involve cases in court and so should only be used when court involvement is necessary to protect a person or property from real harm. Please be aware that when signing any court form or document, the signer is stating that the information in the document is true to the best of his or her knowledge, information, and belief. Any **individual** who knowingly makes a false statement in a court document or form, or at a **hearing**, may be liable for court expenses, including attorney's fees, paid by the other party. It is also a crime to make a false statement under oath in a court document or hearing. In addition, a parent's misuse of the protection process to attempt to gain an advantage in a divorce or **parentage** case may be considered by the court in the divorce or parentage case when deciding about parental rights and responsibilities.

Part A – Protection from Abuse

1. What is abuse?

- Attempting to cause or causing physical injury or offensive contact, including sexual assault;
- Attempting to place, or placing, another in fear of bodily injury through threatening, harassing or tormenting behavior;
- Compelling a person by force, threat of force or intimidation to do something or not do something that the person has a right or privilege to do or not do;
- Knowingly restricting substantially the movements of another person without that person's consent;
- Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life;
- Repeatedly, and without reasonable cause, following the plaintiff or being at or in the vicinity of the plaintiff's home, school, business, or work;
- Knowingly, and with the intent to harass, torment or threaten, disseminating a **private, sexually explicit image** of the plaintiff or another person without consent; or

- Engaging in **sex trafficking** or **aggravated sex trafficking**.
- If the actions do not constitute abuse as specifically defined in the abuse law, the plaintiff may want to explore eligibility for a protection from harassment order. See Part B of this guide.

2. Who can ask a court for a protection from abuse order (plaintiff)?

- An **adult** who is the victim or target of the abuse;
- An adult on behalf of a **minor child** for whom the adult is responsible;
- An **emancipated minor**; or
- An **incapacitated person** or **dependent person**, represented by a **guardian**.

3. Who can be a defendant in a protection from abuse case?

- A spouse or ex-spouse;
- A domestic partner or ex-domestic partner;
- A current or former dating partner or intimate partner;
- A current or former **family or household member**;
- An **unpaid care provider** or **extended family member**, if the plaintiff is 60 years of age or older; or
- Anyone who has committed a sexual assault, engaged in stalking, or knowingly disseminated a private, sexually explicit image of the plaintiff without consent.

4. How is a protection from abuse case started?

- If you are the plaintiff, you must fill out a *Complaint for Protection from Abuse* (PA-001) (*Complaint*) and other forms that apply (see the front inside cover for a checklist of forms), sign in front of a notary, attorney, or court clerk, and submit the forms to the District Court.
- You can go in person to the clerk's office, fill out the forms by hand, sign in front of a notary, attorney, or court clerk, and file (submit). You can also fill out the forms online, print, and then take them to the District Court to file. Again, the forms must be signed in front of a notary, attorney, or court clerk.

Sometimes the guide refers to things a plaintiff or defendant must or may do by using the pronoun "you."

"You" can mean either the plaintiff or the defendant depending upon the specific section and context.

- Local domestic violence or sexual assault prevention advocates may be able to assist the plaintiff in completing the required forms and information. Contact information for these organizations and other resources is on the back cover of the guide.
- A protection from abuse order is not enforceable until the defendant receives official notice of the case (**service**) after it has been filed. For more information about service on the defendant, see Part A.11.

5. Which District Court should the plaintiff go to?

- A plaintiff can go to the District Court location where he or she lives, where the defendant lives, or where the plaintiff is currently living if the plaintiff has moved out of the home for safety reasons. A list of District Courts can be found at: http://www.courts.maine.gov/maine_courts/district.

6. Fees

- There are no court filing or service fees in protection from abuse cases.

7. Tips for filling out the Complaint

- The plaintiff must fill out the Complaint form completely. Give as much detail as possible. What specifically did the defendant do or say, what injuries or harm did you (or, if you are submitting on behalf of a child plaintiff), suffer, or are in danger of suffering? Do not simply state, “The defendant stalked me,” or “The defendant threatened to harm my child.”
- Provide details on the most serious and most recent abuse first. Be sure to include information about when the abuse occurred, including dates and times.
- If you do not want the defendant to know where you are staying for safety reasons, fill out and file an *Affidavit for Confidential Address/Telephone Number* (PA-015) form. The defendant will not be able to see your current address or telephone number. The court needs to have your contact information so the clerk’s office can contact you about the case.
- If your case involves the release by the defendant of a private, sexually explicit image without consent, any images submitted with the *Complaint* are automatically placed under seal. This

means the images will not be able to be viewed by or released to the public. The defendant and the defendant's attorney will be able to view, but not copy, the images. Viewing must be done at the court, and only for the purpose of preparing a response to the *Complaint*.

- The last section of the *Complaint* form asks you to check boxes for the **relief** you are requesting. Be sure to check any and all boxes that you would like the court to consider.
- If you need help filling out the *Complaint* form, consult with an attorney or an advocacy organization. Contact information for advocacy organizations is on the back inside cover of this guide.
- Keep the clerk informed of any address changes.

8. Process for getting a temporary protection order

- The judge may grant immediate protection in a temporary protection order.
- The clerk will tell you if a judge is available to review your *Complaint* when you submit it and will provide other information about what will happen next.
- You may be asked to wait at the courthouse until a judge can review the *Complaint*. Follow the clerk's instructions.
- The judge may interview you or ask you additional questions about the abuse. If the judge believes the information you have provided qualifies for immediate relief, he or she will sign the order.
- The temporary protection can include some or all of the relief you have asked for in the *Complaint*.
- The temporary protection order does not take effect until the defendant receives a copy of the order (is served).
- The court will schedule a final hearing within 21 days from the date the case is filed. A final protection from abuse order may last up to two (2) years.
- If you withdraw the case before a final hearing, any temporary protection order that was granted will no longer be in effect.

9. Restrictions on the defendant's right to own, receive, or possess firearms, other dangerous weapons, or ammunition

- Maine law allows the judge to prohibit the defendant from possessing firearms or other **dangerous weapons** in a temporary or final protection from abuse order. The judge must find either

that: 1) the abuse involved the use or threatened use of firearms or dangerous weapons; or 2) a heightened risk of immediate abuse exists to you (the plaintiff) or a minor child in the household. You will need to provide specific, detailed information on the defendant's use or threatened use in the *Complaint*.

- Depending upon the specific facts of the case, federal law may also apply to the defendant's right to own, receive, or possess firearms or ammunition in a final protection from abuse order.
- In order for this federal prohibition to apply in your case, the defendant must have had actual notice and an opportunity to participate in a hearing, and:
 - The judge must have made a specific **finding of fact** that the defendant represented a credible threat to the physical safety of the plaintiff or a minor child in the household; or
 - The order must explicitly prohibit the defendant from the use, attempted use, or threatened use of physical force against the plaintiff or a minor child in the household that would reasonably be expected to cause bodily injury. (See Title 18 of the United States Code, Section 922(g).)
- Other sections of federal law may be relevant to this prohibition, or provide exceptions to this prohibition. Parties should seek legal assistance if they have questions about whether the federal prohibition could or does apply in their case.
- If you know what dangerous weapons the defendant has, be sure to describe them in as much detail as possible. Describe the kind of weapon(s), number of weapons, what the weapons look like, and where they are usually kept.

10. When will a final hearing be held in a protection from abuse case?

- If the judge decides that a temporary protection order is not called for, the plaintiff may still go forward with the case. You also have the option to withdraw the case (ask that the case be dismissed **without prejudice**). If you decide to withdraw the case, you can begin a new case at a later date.
- If you decide to go forward with the case you have started, the clerk will schedule a final hearing on the *Complaint* within 21 days.

11. Service on the defendant

- If a temporary protection order is granted, the court will generally arrange for service on an in-state defendant.
- The court may occasionally ask the plaintiff to take copies of the court papers to the police department or sheriff's office to speed up service on the defendant.
- Electronic copies of the court papers will also be transmitted to law enforcement and will be served on the defendant if police or sheriff's officers encounter him or her. (This might happen in a traffic stop, for example.) The defendant will be served even if you have decided not to give copies of the court papers to law enforcement for service.
- The court will issue a ***Summons Protection Order*** (PA-004) informing the defendant where and when the final hearing will be held. The defendant will also receive a copy of your *Complaint*, and if issued, the temporary protection order.
- There will probably be a gap between the time the order is issued and when it goes into effect. The defendant must be served by the sheriff's office or police department for the order to take effect.
- When the law enforcement officer serves the defendant, the date and time will be recorded. This is called "proof of service" and is important because the court will not hold a final hearing if the defendant has not received official notice of the case. You should follow up with the police department or sheriff's office to find out when the defendant was served and make a note of it.

12. Rights and responsibilities of a defendant in a protection from abuse case

- If you are the defendant in a protection from abuse case, you have the right to contest the **allegations** in the *Complaint* and present evidence on your behalf at a hearing.
- If you were not served (did not receive notice from the court) by the date of the hearing, the court will reschedule the hearing for a later date.
- You may hire an attorney or seek other assistance to respond or prepare a defense. Information on legal resources may be found on the back cover of this guide.
- If a copy of a temporary protection order is part of the legal papers you receive, you must obey all parts of the order while it

is in effect. If you do not, you are subject to arrest and criminal charges.

- You may ask the court to **modify** or **dissolve** a temporary protection order. If you want to request that the court do this, use *Defendant's Motion to Dissolve Temporary Order for Protection or Motion to Modify/Amend Protection Order* (PA-010).
- You can fill out form PA-010 online, print, and then sign in front of a notary, attorney, or clerk, and file. Online forms can be found at: http://www.courts.maine.gov/fees_forms/forms.
- If you do not have access to a computer or printer and want to fill out the form online, you can go to a library that has public computer access and ask the librarian to help you find the form.
- You can also get form PA-010 from the clerk's office, complete it by hand, sign in front of a notary, attorney, or clerk, and file at the District Court. There is no fee for submitting form PA-010.
- If you request that the court modify or dissolve a temporary protection order, the plaintiff must be given 48 hours advance notice of the hearing unless the judge sets a shorter time.
- Only a judge may change the terms of a temporary protection order. The plaintiff cannot change the terms or give you permission to violate its terms. For example, if the temporary order prohibits you from entering a home you shared with the plaintiff, you will be charged with a crime if you enter the house even if the plaintiff has invited you. Violation of a temporary protection order is a Class D crime that carries penalties of up to 364 days in jail and/or a fine of up to \$2,000.
- Whether or not a temporary protection order has been issued, you have the right to participate in the final hearing on the plaintiff's *Complaint*. You will be given notice of the date and time of the hearing in the *Summons*. You are not required to submit a written response, but if you want to say anything about the case, you must go to the final hearing.
- In addition to testifying, you may bring witnesses, or request that the clerk's office issue a **subpoena** for a witness to appear at the hearing.
- Keep the clerk's office informed of any address changes.

13. If a temporary order prohibits the defendant from possessing dangerous weapons

- If a temporary order prohibits you from possessing firearms or other dangerous weapons, you must turn over the specified items to a law enforcement officer or other person as specified in the order.
- If the order permits you to turn over the specified items to someone other than a law enforcement officer, you must file a statement identifying that person and listing all items turned over. The statement must be filed within 24 hours of turnover and given to either the court or the local police department or sheriff's office. The firearms or other dangerous weapons must be turned over within the time stated in the order.

14. Scheduling a final hearing in a protection from abuse case

- The clerk will schedule a final hearing on a protection from abuse case within 21 days from the filing of the *Complaint*.
- The defendant must have received official notice of the case (been served) in order for the final hearing to be held. If the defendant has not been served by the date of the final hearing, the court will reschedule the hearing for a later date.
- If the defendant has not been served by the date of the final hearing, the plaintiff must still go to court on that date to make sure the case is not dismissed and that any temporary order remains in effect.
- Both parties must go to the final hearing or it is likely the judge will rule against the absent party. If the plaintiff does not attend the hearing, the judge will likely dismiss the case. If the case is dismissed, any temporary protection order will no longer be in effect.
- If the defendant does not go to the hearing, the judge will likely sign a final protection from abuse order.
- If the plaintiff or the defendant has an emergency and cannot attend the hearing on the date scheduled, that party must inform the court as soon as possible and request a **continuance** (postponement) in writing. The judge will decide whether to grant the request for a continuance.

15. Orders by consent (without a hearing)

- Before the final hearing begins, the judge may ask the parties if they are willing to consider entering into a protection order by consent instead of having a full hearing.
- Consent orders can include the same protections and have the same legal effect that an order issued after a hearing would have.
- Consent orders are often worked out by the judge after speaking with the parties, or through go-betweens such as domestic violence advocates or attorneys. There should be no direct discussion or contact between the parties without the judge if there is a temporary protection order prohibiting contact between the defendant and the plaintiff.
- A consent order is issued without a finding of fact by the judge that the defendant committed abuse, sexual assault, stalking, or disseminated private, sexually explicit images.
- Violations of a consent order are, however, just like violations of an order issued after a hearing. The defendant is subject to arrest and prosecution for violating a consent order the same as he or she would be for violating an order issued after a hearing.

16. What happens in a final hearing?

- The final hearing is public and is held before a judge.
- Like any other civil court case, the plaintiff goes first and has the burden to prove the allegations in the *Complaint*.
- The defendant will have an opportunity to present his or her defense after the plaintiff.
- The plaintiff will have asked the court to grant specific kinds of relief in the *Complaint*. See Part A.7. The defendant should be prepared to explain why the relief the plaintiff has requested is inappropriate, or suggest alternative arrangements. If the defendant believes that the plaintiff's *Complaint* was filed without basis, the defendant should be prepared to present evidence of this.
- Both the plaintiff and the defendant must be ready to present evidence, testify, and if necessary, call witnesses at the hearing.
- In addition to the parties, individuals with personal knowledge of what happened may testify. If the case has been brought on behalf of a minor child, the child will probably be required to testify unless the plaintiff or another witness has personal knowledge of what happened and can testify instead.

- Parties may be accompanied by friends and family members, and assisted by advocates or attorneys at the hearing. Support people may not testify if they do not have direct personal knowledge of the events described in the *Complaint*.
- Like other civil court cases, the final hearing is subject to the Maine Rules of Evidence, which limits the kind of information the judge may consider. The court will rule on any objections.
- If the plaintiff and the defendant are the parents of minor children, both parties must bring a completed *Child Support Affidavit* (FM-050) to the final hearing unless a child support order is already in place. The judge may ask questions about income. If an order is granted, the judge may direct payment of child support if there is not a child support order in place already.

17. What relief may be included in a protection from abuse order?

- An order for protection from abuse may include one or more of the following:
 1. The defendant shall not hurt, threaten or interfere with the plaintiff and any children in the plaintiff's home;
 2. The defendant shall not have any **direct** or **indirect contact** with the plaintiff;
 3. The defendant shall stay away from the plaintiff's home, school, business or work;
 4. The defendant shall not stalk or follow the plaintiff;
 5. The defendant shall not possess firearms or other dangerous weapons;
 6. The defendant shall not take, sell, damage or destroy any property that belongs to the plaintiff in whole or in part;
 7. The defendant shall not injure or threaten to injure any animal owned or kept by either party;
 8. The defendant shall not disseminate any private, sexually explicit images of the plaintiff; and
 9. The defendant shall not destroy, transfer or tamper with the plaintiff's passport or other immigration document in the defendant's possession.
- An order may also:
 1. Grant temporary possession of the home to the plaintiff or the defendant;
 2. Grant a division of personal property;

3. Grant custody, control or care of any animal owned or kept by either party or a minor child residing in the household;
 4. Require the defendant to pay for the plaintiff's temporary support, loss of earnings, property damage, or moving expenses;
 5. Require termination of any life insurance policy owned by the defendant insuring the plaintiff, with a copy of the order to be sent to the insurance company;
 6. Require the defendant to get counseling or attend a certified batterers' intervention program;
 7. Require the defendant to remove, destroy, or return to the plaintiff any private, sexually explicit images, or pay the costs associated with the removal, destruction, or return of the images; or
 8. Pay damages related to the return or restoration of the plaintiff's passport or other immigration document, and any debts of the plaintiff arising from the sex trafficking relationship.
- If the plaintiff and the defendant have children together, an order may also include one or more of the following:
 1. Grant temporary parental rights (primary and visitation);
 2. Order payment of child support, including an immediate payroll withholding to collect support; and
 3. Order the filing of child support affidavits if not already done.
 - The judge can order the defendant to pay court costs and/or reasonable attorney's fees.
 - The judge can in the alternative order the plaintiff to pay court costs and/or reasonable attorney's fees, but only if the plaintiff loses the case and the court decides the *Complaint* was **frivolous**.
 - An order can specify any other relief that is necessary and appropriate.
 - Depending upon the specific findings of fact in the final order, the defendant may also be prohibited from owning, receiving, or possessing firearms or ammunition under federal law, even if the defendant was not prohibited from possessing firearms or dangerous weapons under Maine law. See Part A.9.

18. How long may a final protection from abuse order last?

- Up to two (2) years. The judge may order a shorter period at his or her discretion, or by consent of the parties.

19. What if the defendant violates the order?

- The plaintiff should call the police and tell them that the defendant has violated a protection from abuse order (temporary or final).
- Call 911 if anyone is in immediate danger.
- Depending upon the specific terms of the order, the defendant may be guilty of a Class D or Class C crime and may be subject to arrest or fine.
- The police officer does not need to witness the violation in order to arrest the defendant.

20. Modifying a final protection order at the plaintiff's request

- Only a judge can modify, dissolve, or extend a protection order, even if the parties have changed their minds about the terms, or reached an agreement. Until a judge has done so, the order remains in effect. Any violation may put the defendant at risk of arrest or prosecution.
- If the plaintiff wants to modify the order before it ends, the plaintiff must file a written request (a motion) with the District Court clerk. The clerk will give a date and time for a hearing and will arrange for service on the defendant.
- The same general process applies for service and a hearing on a motion to modify an order of protection from abuse as described in Part A.11, A.12, and A.16, except that only a plaintiff may request that a final protection from abuse order be modified.

21. If the plaintiff wants the protection order extended

- An order of protection from abuse may last up to two (2) years. If the plaintiff wants the order to last longer, he or she must file a written request with the District Court clerk (*Motion to Extend Order* (PA-013)).
- The plaintiff should file the request to extend the protection order 30 days before the expiration date of the order to prevent a gap in protection. If the plaintiff does not file a request to extend the protection order, the original order remains in effect until the

expiration date.

- The same general process applies to a motion to extend a protection order as the process described in Part A.11, A.12, and A.16. The defendant has the right to respond by going to the hearing on the motion to extend the order, and by filing his or her own motion to modify, dissolve or amend the order (see form PA-010).

22. Protection from abuse order issued by a court in another state

- If the plaintiff has received a temporary or final protection from abuse order from a court in another state, he or she may file, or “register,” the order with the District Court in Maine. The plaintiff is not required to register an order from another state (sometimes called a “foreign judgment”) in order for it to be enforced in Maine, but registering a protection from abuse order may assist law enforcement officers in enforcing it.
- To register an order, provide an **authenticated copy** of the temporary or final order from the other state to the clerk's office in the District Court in the county where you live. Keep a copy of the order for your records.
- The defendant will have received notice of the temporary or final order from the court in the other state, and will not be notified that you have registered the order, unless you agree.
- Once an authenticated copy of the order is registered, it is treated the same as if it had been issued originally by a Maine court.

Part B – Protection from Harassment

1. What is harassment?

- Three (3) or more acts of intimidation, confrontation, actual or threatened physical force by the defendant, made with the intention of causing fear, intimidation, or damage to personal property, and which do in fact cause fear, intimidation, or damage to personal property; or
- A single act or course of conduct constituting a **serious criminal act**, such as sexual assault, terrorizing, kidnapping, aggravated assault, arson, or violation of privacy; or
- Violating or interfering with the plaintiff’s constitutional or civil

rights.

2. Who can ask a court for a protection from harassment order (plaintiff)?

- Any person, including those listed in Part A.2; and
- A business.

3. Who can be a defendant in a protection from harassment case?

- Any individual can be a defendant in a protection from harassment case. No special relationship between the plaintiff and the defendant is required.
- If someone with whom you had or have a relationship has abused you, you may file a *Complaint for Protection from Abuse* (PA-001). See Part A of the guide.

4. How is a protection from harassment case started?

- The plaintiff must show that law enforcement has issued a notice to the defendant to stop the harassment (sometimes called a cease-harassment notice) before starting a protection from harassment case.
- You are not required to file a copy of a cease-harassment notice if the *Harassment Complaint for Protection from Harassment* (PA-006) (*Harassment Complaint*) is based on sexual assault, stalking, or another serious criminal act.
- You can also ask the court to waive the cease-harassment notice if you have a good reason for requesting a waiver of notice.
- To have law enforcement issue a cease-harassment notice, go to your local police department or sheriff's office and report the harassment. Get a copy of the cease-harassment notice and submit with your *Harassment Complaint*. In some situations, simply reporting the harassment to law enforcement will stop the harassment.

5. Which District Court should the plaintiff go to?

- You can go to the District Court location where you live, where the defendant lives, or where your business is located. A list of District Courts can be found at:
http://www.courts.maine.gov/maine_courts/district.

6. Fees

- There is a fee for filing a *Harassment Complaint* unless the *Harassment Complaint* is based on abuse, stalking, sexual assault, the dissemination of a private, sexually explicit image without consent, or sexual trafficking. The clerk will give you information on what the current fees are. In addition, a schedule of fees can be found in Administrative Order JB-05-26, available online at:
http://www.courts.maine.gov/rules_adminorders/adminorders.
- If you cannot afford the fees, you may request a waiver from the judge. The clerk will provide an affidavit for you to file to request a waiver.

7. Tips for filling out the Harassment Complaint

- See Part A.7.

8. Can a plaintiff get a temporary protection from harassment order?

- Yes. The plaintiff must show that he or she is in immediate danger of physical abuse or extreme **emotional distress**. If the plaintiff is a business, the plaintiff must show that the business is in immediate danger of suffering substantial damage as a result of the defendant's actions.
- A temporary protection from harassment order may prohibit the defendant from some or all of the following:
 1. Threatening, assaulting, interfering with, harassing, restraining, or otherwise disturbing the peace of the plaintiff or the plaintiff's employees;
 2. Entering the plaintiff's residence or property;
 3. Taking, selling or damaging property owned or partly owned by the plaintiff;
 4. Repeatedly, and without reasonable cause, following the plaintiff; being at or near the plaintiff's home, school, business or work;
 5. Having any direct or indirect contact with the plaintiff; or
 6. Destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession.
- See Part A.8 for additional information on the process for getting a temporary protection order.

9. When will a final hearing be held in a protection from harassment case?

- A final hearing in a protection from harassment case will be scheduled at the earliest available date, but unlike a protection from abuse case, does not have to be scheduled within 21 days.

10. Service on the defendant

- The *Summons*, *Harassment Complaint*, and additional forms that were submitted to the court must be served on the defendant before a hearing can be held.
- Generally, the District Court clerk will give the plaintiff copies of the papers to take to the police department or the sheriff's office to be served. There is a fee for service unless the *Harassment Complaint* involves domestic or dating violence, sexual assault, stalking, dissemination of a private, sexually explicit image, or sexual trafficking.
- As with a protection from abuse case, a final hearing will not be held until the defendant has received official notice of the case (been served). See additional information on service in Part A.11.

11. Rights and responsibilities of a defendant in a protection from harassment case

- A defendant in a protection from harassment case has the same rights and responsibilities as a defendant in a protection from abuse case. See Part A.12.

12. Scheduling a final hearing in a protection from harassment case

- The clerk will schedule a final hearing on a protection from harassment case after the judge has signed a temporary order for protection.
- If the judge has decided not to issue a temporary order, a hearing on a final hearing may still be scheduled.
- The defendant must have received notice (been served) prior to the final hearing date. A final hearing will be scheduled at the earliest possible date. See Part A.14 and A.16 for other information related to a final hearing.

13. Orders by consent (without a hearing)

- The court may work out an order by consent in a protection from harassment case the same way as in a protection from abuse case. See Part A.15.
- The court may also explore settlement options with the parties or require mediation to enable the parties to settle the case without a full court hearing.

14. What happens in a final hearing?

- If a final hearing is held, the same process applies as in a protection from abuse case. See Part A.16.

15. What relief can be included in a final protection from harassment order?

- A final protection from harassment order may prohibit the defendant from some or all of the following:
 1. Harassing, threatening, assaulting, interfering with, attacking or otherwise abusing the plaintiff or the plaintiff's employees;
 2. Entering the plaintiff's property or residence;
 3. Interfering with or destroying the plaintiff's property;
 4. Repeatedly and without reasonable cause: following the plaintiff; being at or near the plaintiff's home, school, business or work;
 5. Having any direct or indirect contact with the plaintiff; or
 6. Destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession.
- A final order may also require the defendant to pay money to the plaintiff for losses suffered as a direct result of the harassment. Losses are limited the following:
 1. Loss of earnings or support;
 2. Reasonable expenses incurred for safety protection;
 3. Reasonable expenses incurred for personal injuries or property damage;
 4. Reasonable moving expenses; and
 5. Damages related to the return or restoration of the plaintiff's passport or other immigration document and any debts of the plaintiff arising from the sex trafficking

relationship.

- The judge can order the defendant to pay court costs and/or reasonable attorney's fees.
- The judge can in the alternative order the plaintiff to pay court costs and/or reasonable attorney's fees, but only if the plaintiff loses the case and the court decides the *Harassment Complaint* was frivolous.
- An order can specify any other relief that is necessary and appropriate.

16. How long may a protection from harassment order last?

- Up to one (1) year.

17. What if the defendant violates the protection from harassment order?

- If the defendant violates the protection from harassment order, he or she may be guilty of a Class D crime and may be subject to arrest, fine, or contempt of court (if the defendant fails to pay money damages ordered by the court). See Part A.19 for additional information on what to do if a defendant violates a protection from harassment order.

18. Modifying or extending a protection from harassment order

- The same general process applies to modifying or extending a protection from harassment order as to a protection from abuse order. Both the plaintiff and the defendant may request that the court modify or extend a protection from harassment order. See Part A. 20 and A. 21.

19. Protection from harassment orders issued by another state

- A protection from harassment order issued by another state is treated the same as an order issued by a Maine court. See Part A. 22 of the guide for the rights and responsibilities that apply to the plaintiff and the defendant.

Definition of Key Terms

Abuse: Attempting to cause or causing physical injury or offensive contact, including sexual assault; attempting to place, or placing, another

in fear of bodily injury through threatening, harassing or tormenting behavior; compelling a person by force, threat of force or intimidation to do something that the person has a right or privilege to abstain from doing; knowingly restricting substantially the movements of another person without that person's consent; communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life; repeatedly, and without reasonable cause, following the plaintiff or being at or in the vicinity of the plaintiff's home, school, business, or work; knowingly, and with the intent to harass, torment or threaten, disseminating a private, sexually explicit image of the plaintiff or another person without consent; or engaging in sex trafficking or aggravated sex trafficking.

Adult: An individual who is eighteen (18) years of age or older, or an emancipated minor.

Affidavit: A written statement made voluntarily, and signed under oath.

Aggravated sex trafficking: Compelling an individual to enter into, engage in, or remain in prostitution through force, threat of force, coercion, or fraud; promoting prostitution of an individual under the age of 18; or promoting prostitution of an individual who suffers from a mental disability, as further defined in Title 17-A of the Maine Revised Statutes, Section 852.

Allegation(s): Statements or claims made in a complaint and other court documents, not yet proven.

Authenticated copy: A copy of an order or other court document with: 1) the clerk's seal or signature attesting that the document is a true copy; 2) a judge's attestation that the clerk is the clerk of said court and the proper person to make out and certify said document; and 3) the clerk's further attestation that the judge signing is duly qualified and commissioned, and the proper person to make out and certify the document in question. In Maine, this is sometimes referred to as an "exemplification."

Complaint: The term for the first document filed with a court to start a case. Form PA-001 is used in protection from abuse cases, and form PA-006 is used in protection from harassment cases.

Continuance: Postponement of a hearing at the written request of one or both parties. Only a judge can grant a continuance.

Dangerous weapon(s): Firearms or other devices, instruments, materials, or substances, whether animate or inanimate, used as weapons and capable of causing death or serious physical injury.

Defendant: The individual against whom a case is filed.

Dependent person: An adult who has a physical or mental condition that substantially impairs the adult's ability to adequately care for his or her daily needs.

Direct contact: Any time the defendant is in physical proximity to the plaintiff, or any attempt to contact the plaintiff through other means, including telephone, letter, email, texting, or messages from the defendant posted on the plaintiff's social media accounts.

Dissolve: To end a temporary or final protection order. The court sometimes uses the term "terminate" to mean the same thing.

Emancipated minor: An individual under the age of eighteen (18) who has been emancipated by court order.

Emotional distress: Mental or emotional suffering shown by fear, anxiety, torment, or apprehension.

Extended family member(s): Any family members related by blood, marriage, or adoption.

Family or household member(s): A spouse or ex-spouse; domestic partner or ex-domestic partner; individuals who are, or were, living together; parents of the same child; adult household members related by blood or marriage; minor children of a household member when the defendant is an adult household member; or current or former dating or intimate partners.

File: To file is to fill out and submit forms or documents (a filing) to begin a case, or ask a court to do something in a case.

Final order: In a case under the protection laws, an order that a judge grants at the final hearing. See also **Order** and **Temporary order**.

Finding of fact: A determination by a judge of a factual question or issue.

Frivolous: A finding by a judge that the allegations in the complaint or other documents lack any basis in fact and were intended to harass, embarrass or delay.

Guardian: An individual who has the legal authority and duty to care for the interests of another. A parent is usually a guardian of his or her child or children. A guardian can also be an individual who is legally appointed on behalf of a child or incapacitated person.

Harassment: Under the protection laws, three (3) or more acts of intimidation, confrontation, actual or threatened physical force by the defendant, made with the intention of causing fear, intimidation or damage to personal property, and which do in fact cause fear, intimidation or damage to personal property; or a single act or course of conduct constituting a serious criminal act; or violating or interfering with the plaintiff's constitutional or civil rights.

Hearing: A court proceeding before a judge, similar to a trial.

Incapacitated person: An adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that he or she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning themselves, or to the extent that he or she cannot effectively manage his or her own property.

Indirect contact: Any effort by the defendant to contact the plaintiff through other people, including having others give the plaintiff letters or images, or forward emails, texts, or social media messages to the plaintiff.

Individual: A natural person; a human being as distinguished from a business or entity.

Minor child: An individual under the age of eighteen (18).

Modify: To make changes to the terms of an order in response to the request of a party, if permitted.

Motion: A written application by a party to a court.

Order: A direction by a judge to one or both parties to do or not do something. In a case under the protection laws, a judge may issue a

temporary protection order, a final protection order (after a final hearing), or an order by consent (agreed to by both the plaintiff and the defendant).

Parentage: The legal relationship between a child and a parent; the legal status of being a parent.

Parties: Collectively, the plaintiff and the defendant in a court case. The singular term, party, can refer to either the plaintiff or the defendant.

Plaintiff: The individual filing a case.

Private, sexually explicit image(s): In cases under the protection laws, a photograph, videotape, film, or digital recording of the plaintiff or another person in a state of nudity or engaged in a sexual act or simulated sexual act, which the defendant has distributed without the plaintiff's consent and with intent to harass, torment or threaten.

Reasonable accommodation: Actions taken to make existing facilities or processes readily accessible and usable by individuals with disabilities.

Relief: The specific protection asked for by a party or ordered by a judge.

Serious criminal act: In cases under the protection from harassment law, an alleged violation by the defendant of any of the following sections of Title 17-A of the Maine Revised Statutes: 201(murder); 202 (felony murder); 203 (manslaughter); 204 (aiding and abetting suicide); 207 (assault); 208 (aggravated assault); 209 (criminal threatening); 210 (terrorizing); 210-A (stalking); 211 (reckless endangerment); 253 (gross sexual assault); 301 (kidnapping); 302 (criminal restraint); 303 (criminal restraint by parent); 506-A (harassment); 511 (violation of privacy); 511-A (dissemination of private, sexually explicit images); 556 (incest); 802 (arson); 805 (aggravated criminal mischief); 806 (criminal mischief); 852 (aggravated sex trafficking); and 853 (sex trafficking).

Service: The process of giving a party official notice of a case or request by the other party so that the person receiving the notice and legal papers may respond.

Sex trafficking: Action or behavior by the defendant that promotes an

adult to enter into, engage in, or remain in prostitution as further defined in Title 17-A of the Maine Revised Statutes, Section 853.

Sexual assault: In cases under the protection laws, any sexual assault in Title 17-A of the Maine Revised Statutes, Sections 251-261, including gross sexual assault or unlawful sexual contact.

Stalking: Two (2) or more acts by the defendant involving following, monitoring, threatening, harassing, interfering with property, or communicating with or about a specific person with the purpose of causing the plaintiff to suffer serious inconvenience or emotional distress; fear physical injury (the plaintiff or a close relative); fear damage to or destruction of property; or fear injury, harm or death to an animal owned or kept by the plaintiff.

Subpoena: An order by a judge directing an individual to appear in court on a specified date and time.

Summons: An order by a judge directing the defendant to appear in court on a specified date and time.

Temporary order: In a case under the protection laws, an order that a judge grants after the plaintiff files the *Complaint* but before the final hearing is held. A temporary order does not take effect until the defendant receives a copy of it (is served). See also **Order** and **Final order**.

Unpaid care provider: An individual who voluntarily provides full or occasional personal care to an adult in the adult's home, similar to the way a family member would provide personal care.

Without prejudice: A dismissal of a Complaint allowing the plaintiff to re-file the case at a later time on the same facts or events. A dismissal **with prejudice** requires the plaintiff to allege new facts or events in order to file a Complaint.

Notes

If you are a victim of violence, abuse or harassment
and believe you are in immediate danger, call 9-1-1.

For help locating emergency services in your area, call 2-1-1.

Attorney Referral and Legal Aid Services in Maine



Lawyer Referral Service
800-860-1460

<http://www.mainebar.org/law>

(\$25 administrative fee to help individuals find a private attorney;
includes a 30-minute consultation)

Additional legal resources can be found at:

http://www.courts.maine.gov/citizen_help/lawyers_legal_help.html

Domestic Violence Resources in Maine

MCEDV. Maine Coalition to
End Domestic Violence

1-866-83-4HELP (24-hour toll-free hotline)

TTY 1-800-437-1220

<http://www.mcedv.org/domestic-violence-resources-maine>

Sexual Assault Resources in Maine

mecasa
MAINE COALITION AGAINST
SEXUAL ASSAULT

Statewide Sexual Assault Crisis and Support Line

1-800-871-7741 TTY 1-888-458-5599

<http://www.mecasa.org>

Important disclaimer: The specific requirements concerning your case are contained in the statutes, rules, and administrative orders. This is only a guide.